

TITLE 312 NATURAL RESOURCES COMMISSION

Emergency Rule
LSA Document #11- 444 (E)

DIGEST

Temporarily adds noncode provisions to govern the requirements for the identification and protection of commercially minable coal resources under IC 14-37 and to assist with the implementation of P.L.140-2011 (SEA 71-2011). Effective August 15, 2011.

SECTION 1. (a) This document applies to all wells for oil and gas purposes, including noncommercial gas wells and noncommercial coal bed methane wells, permitted under IC 14-37 on or after July 1, 2011, and assists in implementation of IC 14-37 and supplements 312 IAC 16.

(b) To the extent a requirement in 312 IAC 16 conflicts, the requirements of this document control.

SECTION 2. (a) The definitions contained in IC 14-8-2, 312 IAC 1, and 312 IAC 16-1 apply throughout this document.

(b) In addition to the definitions contained in subsection (a), the following definitions apply:

- (1) "Division" refers to the division of oil and gas established under IC 14-9-4-1(15).**
- (2) "Division director" refers to the director of the division.**
- (3) "Division of reclamation" refers to the division of reclamation established under IC 14-9-4-1(18).**
- (4) "Indiana geological survey" refers to the Indiana geological survey established by IC 21-47-2-2.**

SECTION 3. (a) Regardless of the depth or thickness of a coal seam, the following are considered to be commercially minable coal resources:

- (1) A coal seam associated with an underground mine permitted under IC 14-34 which is specifically intended to be mined under the permit.**
- (2) A coal seam associated with an inactive underground mining operation permitted under IC 14-34 at which mining operations have temporarily ceased and are anticipated to be resumed by the person with the right to develop the seam.**
- (3) A coal seam which has been identified as a commercially minable coal resource according to the requirements of subsection (c) by the owner or lessee or other person with the rights to develop the coal seams as depicted on a map accompanied by an affidavit that:**

- (A) is filed with the division; and
- (B) states the coal in the seam is being held for later commercial production by underground mining methods.
- (b) For purposes of identifying the location of coal seams described under subsection (a)(1) and subsection (a)(2), the division shall consult with the division of reclamation periodically to identify the location of coal seams that are intended to be mined under a permit issued under IC 14-34 for underground coal mining operations. The division shall make these coal seams available for viewing on its website.
- (c) For purposes of identifying the location of coal seams described under subsection (a)(3), an owner, lessee, or other person with the right to develop a coal seam by underground mining methods may submit the following to the division:
- (1) A map prepared by an engineer licensed under IC 25-31, or a geologist licensed under IC 25-17.6, identifying the coal seam or coal seams by name and showing all of the following:
- (A) The location of coal that the owner or lessee controls by deed, lease, or other instrument for later commercial production.
- (B) The location of coal that is in an area targeted for later commercial production.
- (C) The location of the coal seam or seams of interest.
- (D) the approximate depth and thickness of the coal seam or seams of interest.
- (E) The location of a coal seam which is associated with a mine referred to under subsection (a)(1) or subsection (a)(2) that is projected to be mined in the future even though the coal seam is outside the boundary of the current permitted area.
- (2) An affidavit signed by an engineer licensed under IC 25-31 or a geologist licensed under IC 25-17.6 that states any coal seam identified on the map:
- (A) can be mined using generally accepted underground mining practices; and
- (B) is of sufficient quantity and quality to be commercially saleable.
- (d) As provided under IC 14-37-7-8, except for the name of the person and coal owner or lessee who filed the map and affidavit under subsection (c), the division shall maintain the map and affidavit as confidential.
- (e) Upon:
- (1) inquiry from a person with an interest in oil and gas exploration or drilling operations; or
- (2) receipt of a permit application for a well for oil and gas purposes;

the division shall determine if the proposed well location is in an area underlain by commercially minable coal seams identified under this SECTION.

SECTION 4. (a) A coal seam, other than a seam described in SECTION 3 of this document, may also be considered a commercially minable coal resource if information is submitted to the division showing that the coal seam meets all of the following criteria:

- (1) Based on core analysis information or other reliable methods, the coal seam is believed to be minable using generally accepted underground practices and suitable equipment;**
- (2) Based on sufficient core data or other reliable sources of information, it is likely that the coal exists in sufficient quantities and is of sufficient quality to be commercially saleable; and**
- (3) The seam is:**
 - (A) at least thirty-six (36) inches thick; and**
 - (B) located not more than eight hundred (800) feet below the surface.**

(b) A submittal under this SECTION must include the following:

- (1) a map depicting the boundary of the area within which the designated coal seam is believed to be commercially minable based on core data or other site specific investigations;**
- (2) a description of the source and type of data used to support the determination the designated coal seam is believed to be of sufficient quantity and quality to be considered commercially minable; and**
- (3) the name, address, and qualifications of the person submitting the information.**

(c) After consultation with the Indiana geological survey and the division of reclamation, including a review of coal information reports published by the Indiana geological survey, the division will determine whether there is a sufficient basis to consider a coal seam under this SECTION to be a commercially minable coal resource.

(d) The division shall make the location of coal seams identified as commercially minable coal resources, under this SECTION, available for viewing on its website.

(e) A person with either:

- (1) an interest in drilling a well for oil and gas purposes; or**
- (2) an existing well for oil and gas purposes;**

in an area with commercially minable coal identified under this SECTION, may rebut the determination in a proceeding conducted under IC 4-21.5.

SECTION 5. (a) This SECTION establishes requirements for the locating and permitting of wells for oil and gas purposes in areas underlain by commercially minable coal resources identified under subsection (d).

- (b) For purposes of this SECTION, “waste of the volume of coal” means locating, spacing, drilling, equipping, operating, or producing a well for oil and gas purposes in a manner that unreasonably reduces or tends to unreasonably reduce the quantity of commercially minable coal resources ultimately to be recovered from a mine.**
- (c) Unless the coal owner or coal lessee authorize the drilling of a coal bed methane well as provided under IC 14-37-8.5(d)(2), the division may require an owner or operator to make reasonable modifications to the specific location for the drilling of a well for oil and gas purposes if a finding is made that the modifications:**
 - (1) are necessary to protect commercially minable coal resources from waste;**
 - (2) do not violate the drilling unit, well spacing, or other requirements of IC 14-37; and**
 - (3) are necessary to protect the health and safety of miners.**
- (d) Before submitting an application for a well for oil and gas purposes to the division, the applicant should determine whether the proposed well location is underlain by any of the following commercially minable coal resources:**
 - (1) a coal seam on land within the permit boundary of an active underground mine permitted under IC 14-34;**
 - (2) a coal seam on land within the permit boundary of an inactive underground mine permitted under IC 14-34; or**
 - (3) a coal seam associated with a mine permitted under subdivision (1) or subdivision (2) which is projected to be mined and identified as required under SECTION 3(c)(1)(E) of this document.**
- (e) The owner or operator of a well proposed to be drilled on lands identified under subsection (d) must provide notice of the intent to drill a well to:**
 - (1) the permittee of the mine; or**
 - (2) for an inactive mine, to the person with the right to develop the coal resource.**
- (f) The notice required under subsection (e) is not required if the permittee of the mine consents in writing to the placement of the well.**
- (g) The notice required under subsection (e) must follow a format prescribed by the division and must be accompanied by a plat showing the specific location of the proposed well.**
- (h) The permittee of the mine or other person with the right to develop the coal resource must respond within fifteen (15) days of receipt of the notice whether**

the specific location for the drilling of the well is likely to result in either or both of the following:

- (1) A significant waste of the volume of coal ultimately to be recovered from the underground mine; or
 - (2) Endangerment of the health and safety of miners.
- (i) A person that makes an affirmative determination under subsection (h) with respect to waste of the volume of coal or the endangerment of the health and safety of miners must:
 - (1) Promptly provide a copy of the determination to the owner or operator of the proposed well and to the division; and
 - (2) Identify alternative well locations that would:
 - (A) Reduce or avoid waste of the volume of coal ultimately to be recovered from the underground mine;
 - (B) Eliminate the likelihood of endangerment of the health and safety of miners;
 - (C) Not violate the drilling unit, well spacing, or other requirements of IC 14-37; and
 - (D) Not result in waste of oil and gas resources as defined under IC 14-8-2-302.
- (j) If the permittee (or other owner of the right to mine the coal resource) fails to respond within the specified fifteen (15) day period provided under subsection (h), the owner or operator may file a permit application for the specified location.
- (k) If the permittee (or other owner of the right to mine the coal resource) and the owner or operator of the proposed well agree on a suitable alternate location, the owner or operator may file a permit application for the specified alternate location.
- (l) If the permittee (or other owner of the right to mine the coal resource) and the owner or operator of the proposed well are unable to agree on a suitable location for the well, which is not likely to result in endangerment of the health and safety of miners, any of them may request an informal hearing under IC 14-37-3-16.
- (m) Within thirty (30) days after receipt of a request for an informal hearing, the division director must conduct the informal hearing for the purposes of gathering the following information:
 - (1) Whether the proposed well location is in an active, inactive, abandoned, or projected underground coal mine permit area.
 - (2) Whether the proposed well location is in an unsealed inactive area or a sealed area of an active coal mine with the potential for the drilling of the well to introduce oxygen into the area.

- (3) The proximity and size of coal pillars in an alternate location that might be drilled through, including whether the alternate location is in a panel or in a support for a submain or main entries.
 - (4) The equipment technology, operating, and drilling experience history of the owner or operator.
- (n) Within fifteen (15) days after the conclusion of the informal hearing and the submittal of any follow-up information which the division director requests from the participants, the division director shall determine whether:
- (1) a suitable alternate well location can be identified that is not likely to result in endangerment of the health and safety of miners; and
 - (2) the location for the well for which notice was provided under subsection (e) is not likely to result in endangerment of the health and safety of miners.
- (o) If after the informal hearing the division director:
- (1) is unable to identify a suitable alternate location for the well that is not likely to result in endangerment of the health and safety of miners; and
 - (2) the location for the well for which notice was provided under subsection (e) is not likely to result in endangerment of the health and safety of miners;

the owner or operator is not required to modify the location of the proposed well and may submit a permit application to the division for processing under IC 14-37.

SECTION 6. (a) This SECTION establishes requirements for the completion of wells for oil and gas purposes in areas underlain by the following commercially minable coal resources:

- (1) Areas within the permit boundary of an active or inactive underground mine permitted under IC 14-34;
 - (2) Areas designated by the owner, lessee, or other person with the right to develop the coal seam under IC 14-37-7-8 and SECTION 3 of this document.
- (b) For wells completed in areas underlain by commercially minable coal resources identified under subsection (a), the owner or operator must set a production string of casing properly centralized and cemented to ensure that adequate cement is placed behind the casing in the area between fifty (50) feet below and one hundred (100) feet above the commercially minable coal seam.
- (c) Following completion of the coal seam protection requirements of subsection (b), the owner or operator must prepare and submit to the division an affidavit on a form prescribed by the division that includes the following:
- (1) Verification that the commercially minable coal resource was protected as required by subsection (b).

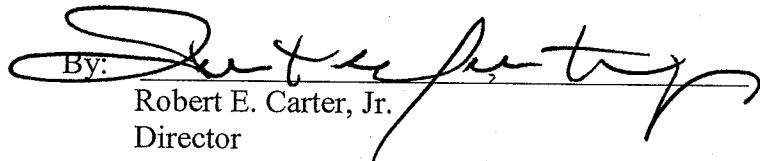
- (2) A cross-section drawing of the well showing the location of each centralizer in the completed well.
 - (3) Evidence that adequate cement was circulated behind the casing as required by subsection (b) including cement tickets showing the volume and type of cement used and copies of any cement bond-variable density logs or other similar logs that were run.
- (d) The division director may require the owner or operator to run a cement bond-variable density log or other similar logging procedure to determine the adequacy of cement bonding if the division director finds either:
 - (1) adequate cement has not been circulated to protect the commercially minable coal resource; or
 - (2) centralizers were not placed at locations necessary to properly centralize the casing through the coal seam.
- (e) If any logging procedure run under subsection (d) indicates that adequate cement bonding has not occurred between fifty (50) feet below or one hundred (100) feet above the commercially minable coal resource, the owner or operator must perform remedial action as ordered by the division director to ensure adequate protection of the coal seam.
- (f) An original copy of the affidavit required under subsection (c) and any logs run under subsection (d) must be submitted to the division within thirty (30) days after the later of the following:
 - (1) construction of the well was completed; or
 - (2) completion of any logging procedure under subsection (d).
- (g) Concurrent with the submission of the affidavit and any logs to the division under subsection (f), the owner or operator must also submit copies of the documents to any known owner or operator of the commercially minable coal resource.
- (h) If the division director finds evidence of a failure to adequately protect a coal seam by an owner or operator under the requirements of this SECTION, the owner or operator must perform additional remedial actions to ensure protection of the coal resource and the health and safety of miners. Significant water, gas, or other fluid movement through the annular space outside the protective casing string and into an underground mine is evidence of a failure to adequately protect the coal seam.
- (i) Running any log under subsection (d) or conducting any remedial actions under subsection (h) are at the expense of the owner or operator.

SECTION 7. THIS DOCUMENT TAKES EFFECT AUGUST 14, 2011.

Rule Signature Page

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Subject: Coal Seam Protection Temporary Rule

ADOPTED:

By:  Date: 8/2/2011
Robert E. Carter, Jr.
Director
Department of Natural Resources

ACCEPTED FOR FILING:

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